



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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May 17, 2022

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TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS 
Litigation Cost Manager
Executive Office

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Darryell Frazier v. Mark Ridley-Thomas, et al.
United States District Court Case No. CV 20-11676 CAS

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

AMB:vc

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Darryell Frazier v. Mark Ridley-Thomas, et al., United States District Court Case No. CV 20-11676 CAS, in the amount of \$3,000,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Office of the Public Defender's budget.

This civil rights lawsuit against the Office of the Public Defender alleges that plaintiff's constitutional rights were violated as a result of his approximate 18-year pre-trial detention as a civil detainee.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Darryell Frazier vs. Mark Ridley-Thomas, et al.
CASE NUMBER	CV 20-11676 CAS
COURT	United States District Court
DATE FILED	December 28, 2020
COUNTY DEPARTMENT	Office of the Public Defender
PROPOSED SETTLEMENT AMOUNT	\$ 3,000,000
ATTORNEY FOR PLAINTIFF	Arnoldo Casillas, Esq. Casillas & Associates
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$3,000,000, an Office of the Public Defender ("PD") civil rights lawsuit filed by former PD client, Plaintiff Daryell Frazier, who claims his constitutional rights were violated arising out of his approximately 18-year pre-trial detention as a civil detainee pursuant to the Sexually Violent Predators Act.</p> <p>Given the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs; therefore, a full and final settlement of the case is warranted.</p>
PAID ATTORNEY FEES, TO DATE	\$ 46,022
PAID COSTS, TO DATE	\$ 5,614



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	2014 to 2018
Briefly provide a description of the incident/event:	<p>This matter arises out of a federal civil rights complaint raising two 1983 claims: (1) a claim of deliberate indifference to constitutional violations against Board of Supervisor Defendants Mark Ridley-Thomas, Hilda Solis, and Sheila Kuehl, and current and former employees of the Los Angeles County Public Defender's Office, former Public Defender Ronald Brown, former Chief Deputy Kelly Emling, former Assistant Laura Green, Division Chief Michael Suzuki, former Chief Deputy Jenny Brown, former DIC Daniel Kuperberg, and Assistant Ruben Marquez; and (2) a claim of municipal liability for constitutional violations against the County of Los Angeles and the Los Angeles County Public Defender's Office.</p> <p>These claims are based on the December 16, 2020 Superior Court ruling on Plaintiff's Motion to Dismiss where the court found that Plaintiff's pretrial detention was presumptively prejudicial in violation his due process rights. In April 2017, the Department was compelled to declare a conflict of interest when the Plaintiff filed a Motion for Appointment of Conflict Free Counsel with demands for the testimony of a former SVP Unit Attorney to testify on her allegations of 2014 staffing cuts preventing her from moving forward toward trial in Plaintiff's case. Thereafter, a panel attorney was appointed by the court and filed the Motion to Dismiss in November 2018.</p> <p>Introduced at the hearings on the motion held from May 2019 to September 2020 were multiple letters regarding concerns expressed by members of the SVP Unit about the staff reductions in 2014. These include memoranda authored by the Deputy in Charge of the SVP Unit in April and August 2014, and letters from SVP Unit attorneys to the Public Defender Ronald Brown, CEO, State Bar, and members of the Board of Supervisors from 2014 through 2015. Also introduced were the motions to continue filed by the former counsel during the time she represented Plaintiff from 2015 to 2016 blaming staff reductions and staff transfers preventing her from preparing the</p>

	<p>case for trial, disrupting client representation and for casefile materials getting lost. She reiterated these claims in her testimony as a witness for Plaintiff at the extensive hearing on the motion to dismiss.</p> <p>The trial court found that the majority of the delay in Plaintiff's case was attributable to Plaintiff—finding that up until late 2013, Plaintiff's delays were attributable to him being pro per, being on a treatment track, or obtaining treatment for prostate cancer. The court ultimately concluded that Plaintiff's trial had been unconstitutionally delayed and dismissed his case finding that the 17 month delay from November 9, 2015 to April 3, 2017—were presumptively prejudicial and attributable to staffing cuts and a systemic breakdown in the Public Defender's Office.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

Staffing reductions in the special unit resulted in continuances by attorneys who believed they had insufficient resources to take the cases to trial; failure to obtain clear time waivers from clients who preferred to remain at the state hospital during court appearances.


2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

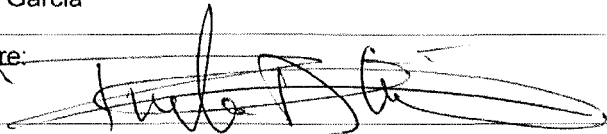
Ensure that the weighted caseloads of attorneys assigned to the Civil Commitment Units are manageable and that adequate support resources are provided. After the Vasquez decision in February 2018, the Supervising Judge of the Superior Court ordered all pending SVP trials to be heard before one court. The Public Defender's Office conducted an audit of all pending cases as to their status and level of preparation with monthly updates reported to the Assistant, Division Chief and DIC. The database is scheduled to migrate to the new centralized Client Case Management System. It has been determined that the high number of SVP cases reported to the BOS and State Bar, were in fact misrepresentations. SVP filings had been continually falling since 2009, at the time of the staff reductions in 2014 and continue to this date where caseloads have remained at or below pre-2014 levels.


Require a verbal waiver taken by the court on the record via video appearance. With the development of video conferencing and assignment of all pending trial cases to one court for all pretrial cases after the Vasquez decision, all waivers are now made on the record in open court with all parties present. Per the above process, written waivers are no longer utilized and non-appearances by the client are not permitted.

3. Are the corrective actions addressing department-wide system issues?

- ☐ Yes – The corrective actions address department-wide system issues.
- ☒ No – The corrective actions are only applicable to the affected parties.

Name: (Risk Management Coordinator) Jon Trochez	
Signature: 	Date: 6-4-21

Name: (Department Head) Ricardo Garcia	
Signature: 	Date: 6-7-21

Chief Executive Office Risk Management Inspector General USE ONLY	
Are the corrective actions applicable to other departments within the County?	
<input type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability.	
<input checked="" type="checkbox"/> No, the corrective actions are applicable only to this department.	
Name: (Risk Management Inspector General) Destiny Castro	
Signature: 	Date: 06/09/2021